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## RECENT IMPORTANT DECISIONS.

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**BANKS AND BANKING—RIGHT TO SET-OFF DEPOSIT AGAINST DEBT DUE BANK.**—L. Bank set off a matured debt due to it by a depositor against the amount due by the bank to the depositor, all of which was done after the death of the depositor and after appraisers appointed to set apart a year's support to his widow had made a return, setting apart the amount due by the bank to the decedent. *Held*, that the bank exercised its right of set-off too late, *Luthersville Banking Co. v. Hopkins* (Ga. 1913) 77 S. E. 589.

It is a general rule that at the maturity of a depositor's indebtedness a bank may apply any deposit he may have, not exceeding his liability, to extinguish his indebtedness, *Commercial Bank v. Hughes*, 17 Wend. 94; *Home Nat. Bank v. Newton*, 8 Ill. App. 563; *Garrison v. Union Trust Co.*, 139 Mich. 392; *Commercial Nat. Bank v. Henninger*, 105 Pa. 496. In some states the bank must notify the depositor before it exercises such application. *Callahan v. Bank of Anderson*, 69 S. C. 374, 48 S. E. 293. In other states a bank lien is not recognized, save by agreement or a particular course of dealing. *Morgan v. Lathrop*, 12 La. Ann. 257. In the principal case the court said that "some of the authorities hold that the bank has a lien upon the deposit for the amount of any indebtedness due it. But liens are statutory, and in this state the bank has no lien." In *People v. St. Nicholas Bank*, 44 N. Y. App. Div. 313, the bank was permitted to appropriate a deposit to pay a matured obligation as against the depositor's attaching creditor, although it had not been exercised at the time of making the attachment. An indispensable condition of such application is the maturity of the depositor's obligation. *Commercial Nat. Bank v. Proctor*, 98 Ill. 558; *Merchants' Nat. Bank v. Robinson*, 97 Ky. 552; *Jordan v. National Shoe & Leather Bank*, 74 N. Y. 467; *Manufacturers' Nat. Bank v. Jones*, 2 Penny (Pa.) 377. A different rule is sometimes applied in equity, especially where there is danger of insolvency of the depositor. *Gibbons v. Hecox*, 105 Mich. 509. A depositor's balance in one branch of a bank may be applied to his debt in another branch. *Garnett v. M'Kewan*, L. R. 8 Ex. 10. The English courts have extended the application of this doctrine so far as to hold that an unappropriated deposit may be appropriated by the banker to the discharge of an indebtedness of the depositor barred by the statute of limitations. *Williams v. Griffith*, 5 M. & W. 300.

**BILLS AND NOTES—PRESENTMENT OF CHECK FOR PAYMENT.**—Defendant gave plaintiff a check shortly before noon: the bank on which the check was drawn was open for business all of the day and the defendant has a credit balance therein. On the following morning it was presented by the plaintiff at another bank in the same city, and payment refused, because the bank on which it was drawn had failed. *Held*, that it was presented within a reasonable time, and the drawer of the check was liable for the amount thereof. *Turner v. Kimble* (Okla. 1913) 130 Pac. 563.

The Negotiable Instruments Law provides that "a check must be presented for payment within a reasonable time after its issue, or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay." The principal case is in accord with the construction placed upon this section of the statute by the authorities. In the absence of special circumstances, a check must be presented not later than the day after it is received if the party receiving the check and the drawee bank are in the same place; if in different places, the check must be forwarded not later than the day following the date of its receipt. *Freiberg v. Cody*, 55 Mich. 108; *Gifford v. Hardell*, 88 Wis. 538; *Farmers' Nat. Bank v. Drcyfus*, 82 Mo. App. 399; *Kershaw v. Ladd*, 34 Ore. 375; *Willis v. Finley*, 173 Pa. St. 28. But if a check is received on Saturday the payee has until the close of banking hours on Monday to present it. *O'Brien v. Smith*, 1 Black (U. S.) 99. As between the indorser and indorsee the same rules which regulate diligence between the drawer and the payee apply. *Mohawk Bank v. Broderick*, 10 Wend. 304; *First Nat. Bank v. Miller*, 37 Neb. 500. But as between the indorsee or assignee and the drawer the same rules do not apply. No transfer or series of transfers can prolong the risk of the drawer beyond the time stipulated to be reasonable as between drawer and payee, though each party is allowed the same period, as between himself and his immediate predecessor, that the payee had as between himself and the drawer. *St. John v. Homans*, 8 Mo. 382; *Taylor v. Young*, 3 Watts 339; *Harker v. Anderson*, 21 Wend. 372.

BUILDING RESTRICTIONS—WHAT IS A "DWELLING HOUSE?"—Defendant is the owner of residence property in whose title papers exists a clause prohibiting the erection on the premises of anything except a "dwelling house." Defendant proposed to erect a house for two families, with a common front door. Suit was brought to restrain the same. *Held*, that a "dwelling house" meant a house for a single family and that the proposed building was within the prohibition. *Schadt v. Brill*, (Mich. 1913) 139 N. W. 878.

This case appears to be in line with the authorities as to the definition of a dwelling house. Generally speaking, a dwelling house is the apartment, building, or cluster of buildings in which a man with his family resides. *State v. Hoffman*, 136 Mo. 58. In a tenement, each room or suite of rooms occupied by a tenant as his residence, more or less permanent, is his "dwelling house." *Mason v. People*, 26 N. Y. 200; *Smith v. Waterworks Co.*, 104 Ala. 316. A statute prohibiting a railroad from taking a man's dwelling house under right of eminent domain, without his consent, includes such grounds surrounding the house as are necessary for the enjoyment of the house as a dwelling. *Damon v. B. & P. R. Co.*, 119 Pa. 287; *Swift v. Givins*, 111 Pa. 516; *Wells v. Railroad Co.*, 47 Me. 345. Restriction to use as a "private" dwelling, prohibits use as a boarding house or as a flat. *Garnett v. Albrce*, 103 Mass. 372; *Skillman v. Smaetheurst*, 1 Dick. 1. The purpose for which a building is being used, and not the purpose for which it is erected, determines its character. *Smith v. Waterworks Co.*, 104 Ala. 316; *N. Y. Fire Dept. v. Buhler*, 35 N. Y. 177. Where a building is being used for a dwelling,